



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 13

COPY MAILED

JAN 23 2003

**Director's Office
Office of Patent Publication**

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

In re Application of	:	
Hartwig Ohmstede	:	DECISION ON PETITION
Application No. 09/720,239	:	
Filed: February 12, 2001	:	
Attorney Docket No. 449122001400	:	

This is a decision on the Petition to Withdraw the Holding of Abandonment received via facsimile transmission, September 26, 2002, for the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition for Withdrawal of Holding of Abandonment."

The application was held abandoned for failure to timely pay the issue fee on or before June 25, 2002.

As evidence of the timely submission of the Issue Fee, petitioner has submitted copies of Part B – Fee(s) Transmittal, and return post-card, which, which acknowledges receipt of the Issue Fee on June 14, 2002, by the Patent and Trademark Office, (PTO).

The PTO acknowledges receipt of the afore-mentioned document on June 14, 2002. However, upon review of the application it was revealed that the Deposit Account No. was not included on the Issue Fee Transmittal.

The holding of abandonment was proper in view of petitioner's failure to include the deposit account number on Part B of the Issue Fee Transmittal Form. Without the inclusion of the deposit account number, there was no general authorization to charge the issue fee.

37 CFR 1.25(b), which was in effect at the time of the mailing of the Notice of Allowance, permitted blanket authorization to charge all or only certain fees.

37 CFR 1.25(b) states:

“A general authorization to charge all fee, or only certain fees, set forth in 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed.”

Petitioner should note the new rules pertaining to authorizations of issue fee payments effective November 7, 2000. Note 65 FR 5704, September 20, 2000, and 37 CFR 1.311.

The petitioner should consider petitioning the Commissioner as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or (a) 1203 of the Official Gazette 63, October 21, 1997.

■ Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

With respect to an application filed before June 8, 1995, any petition under § 1.137(a) that is filed more than six months after the abandonment date must—according to § 1.137(c)—be accompanied by a terminal disclaimer with disclaimer fee.

- Under 37 CFR 1.137(a), a petition for the revival of an *unintentionally* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

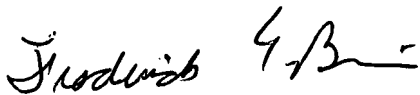
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: 703-308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Rm. 3C23
2201 South Park Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to the Office of Petitions at 703-305-9282.



Frederick E. Briscoe
Legal Instruments Examiner
Office of the Director
Office of Patent Publication